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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

NICHOLAS GIOVANNELLI,)
)
Plaintiff,)
v.)
Pixels.com, LLC)
WALMART, INC., WAL-MART.COM USA,)
LLC, THE STOCKTREK CORPORATION d/b/a)
STOCKTREK IMAGES, INC., PIXELS.COM,)
LLC, AMAZON.COM, INC., AMAZON.COM)
SERVICES, LLC and POSTERAZZI CORP.,)
Defendants.)

Case No. 1:21-cv-1092
1:22-cv-02160

Removed from:
Circuit Court of Cook County
Case No. 2021 L 000144

Judge Franklin U. Valderrama
Magistrate Judge Jeffrey T. Gilbert

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Walmart Inc., Wal-Mart.Com USA, LLC, The Stocktrek Corporation, Pixels.Com, LLC, Amazon.Com, Inc., Amazon.Com Services, LLC and Posterazzi Corp., hereby remove this action, Case No. 2012 L 000144, from the Circuit Court of Cook County, Illinois, County Department, Law Division, to the United States District Court for the Northern District of Illinois, and in support of their Notice of Removal, state as follows:

A. Nature of the Civil Action

1. Defendants are named as Defendants in Case No. 2021 L 000144, from the Circuit Court of Cook County, Illinois.

2. Plaintiff seeks damages brought under the Illinois Right of Publicity Act, 765 ILCS 1075/1 and the common law for Negligent Infliction of Emotional Distress.

B. Timing and Perfecting of Removal

3. All Defendants hereby join in this Notice of Removal.

4. The timing of this removal is proper pursuant to 28 U.S.C. § 1446(b) as it is being filed within thirty days of certain Defendants' being served with the Complaint. Defendant The Stocktrek Corporation was served with the Complaint on January 26, 2021. Defendant Amazon.Com Services, LLC was served with the Complaint on January 25, 2021. Defendant Amazon.Com, Inc. has not been served with the Complaint. Defendant Posterazzi Corp. was served with the Complaint on February 2, 2021. Defendant Walmart Inc. was served with the Complaint on January 21, 2021, and agreed to consent to and join this removal petition on February 19, 2021. Defendant Wal-Mart.Com USA, LLC has not been served with the Complaint. Defendant Pixels.com has not been served with the Complaint. (Copies of the served Summonses' and Complaint are attached hereto as Exhibit 1).

5. Upon filing of this Notice of Removal, this office shall promptly provide written notice thereof to the Clerk of the Circuit Court of Cook County, Illinois County Department, Law Division. A copy of the Notice of Filing of Notice of Removal to be filed and served is attached hereto as Exhibit 2.

C. Diversity Jurisdiction

6. For diversity purposes, a corporation is deemed a citizen of its state of incorporation and the state where it has its principal place of business. 28 U.S.C. § 1332(c)(1). A limited liability company is deemed "a citizen of every state in which its members are citizens." *Kroupa v. Garbus*, 583 F.Supp.2d 949, 952 (N.D. Ill. 2008).

7. At the time of the filing of the Complaint and at the time of the filing of this Notice of Removal, Plaintiff was a citizen of the State of Illinois.

8. At the time of the filing of the Complaint and at the time of the filing of this Notice of Removal, Defendant Walmart Inc. was a Delaware corporation with its principal place of business in the State of Arkansas.

9. At the time of the filing of the Complaint and at the time of the filing of this Notice of Removal, Defendant Wal-Mart.Com USA, LLC's was a limited liability company whose sole member was Walmart Inc., which is a Delaware corporation with its principal place of business in the State of Arkansas.

10. At the time of the filing of the Complaint and at the time of the filing of this Notice of Removal, Defendant The Stocktrek Corporation was a Delaware corporation with its principal place of business in the State of New York.

11. At the time of the filing of the Complaint and at the time of the filing of this Notice of Removal, Defendant Pixels.Com, LLC was a limited liability company whose sole member was Sean Broihier, who is a citizen of the State of California.

12. At the time of the filing of the Complaint and at the time of the filing of this Notice of Removal, Defendant Amazon.Com, Inc., was a Delaware corporation with its principal place of business in the State of Washington.

13. At the time of the filing of the Complaint and at the time of the filing of this Notice of Removal, Defendant Amazon.Com Services, LLC was a limited liability company whose sole member is Amazon.com, Inc., which was a Delaware corporation with its principal place of business in the State of Washington.

14. At the time of the filing of the Complaint and at the time of the filing of this Notice of Removal, Defendant Posterazzi Corp. was a New York corporation with its principal place of business in the State of New York.

15. As a result, the requirement of complete diversity of citizenship is satisfied. 28 U.S.C. § 1332.

16. Defendants deny Plaintiff's claims of wrongdoing and requests for relief. However, in his Complaint Plaintiff alleges damages in excess of One Million Dollars, as well as an award of punitive damages. Thus, the amount in controversy exceeds the jurisdictional threshold of \$75,000. 28 U.S.C. § 1332(a); *Dart Cherokee Basin Operating Co. v. Owens*, 574 U.S. 81, 87 (2014).

17. Based on the facts set forth above, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 (diversity of citizenship). The parties are diverse, and the amount in controversy is over \$75,000.

18. Pursuant to 28 U.S.C. § 1441(a), and in accordance with 28 U.S.C. § 1446(b), this entire matter may be removed to this Court because this Court "embrac[es] the place where such action is pending." Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1441.

19. By filing this Notice of Removal of this civil action, Defendants do not waive any of their defenses, including, but not limited to, their right to move to dismiss this action pursuant to Rule 12 of the Federal Rules of Civil Procedure.

20. This Notice of Removal is being provided to Plaintiff, through his counsel of record, Craig D. Tobin, Jessica Firlej, Tobin & Munoz, LLC, 70 W. Madison St., Suite 1950, Chicago, Illinois 60602.

WHEREFORE, Defendants, Walmart Inc., Wal-Mart.Com USA, LLC, The Stocktrek Corporation, Pixels.Com, LLC, Amazon.Com, Inc., Amazon.Com Services, LLC and Posterazzi Corp., hereby remove this action, Case No. 2021 L 000144, from the Circuit Court of Cook County, Illinois, County Department, Law Division, to the United States District Court for the Northern District of Illinois, and request that this Court accept jurisdiction of this action and place

it upon the docket of this Court for further proceedings as though this action had originally been instituted in this Court.

Respectfully Submitted,

WALMART, INC., WAL-MART.COM USA,
LLC, THE STOCKTREK CORPORATION,
PIXELS.COM, LLC, AMAZON.COM, INC.,
AMAZON.COM SERVICES, LLC and
POSTERAZZI CORP.

By: /s/James K. Borcia

One of Their Attorneys

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Notice of Removal was filed through the Court's electronic filing system. Service will be made by operation of that system upon counsel for Plaintiff identified below, and Plaintiff's counsel may access this document through the Court's CM/ECF system. Additionally, a copy of the foregoing Notice of Removal was served upon Plaintiff's counsel via mail and email at the addresses listed below.

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Dated: February 24, 2021

/s/ James K. Borcia
James K. Borcia

4815-3939-2285